

### REMARKS

Claims 1-7 stand rejected as unpatentable under 35 U.S.C. §112, second paragraph because the Examiner asserts claim 1, line 1, has no proper antecedent basis for the term “the executable.” To this end, the Applicant has removed the term and replaced it with “comprising the steps of.” It is believed this overcomes the rejection.

Also, claims 1-7 stand rejected as unpatentable under 35 U.S.C. §101 for being directed to non-statutory subject matter. Namely, the Examiner contends “claim 1 only recites an abstract idea.” *12-10-2004 Office Action, Page 3, 2<sup>nd</sup> full ¶*. As now written, claim 1 presents a method of ensuring proper licensing in a computing device, including steps of receiving, removing, wrapping, executing and restoring. In view of these changes, the Applicant respectfully requests reconsideration. The Applicant believes more than an abstraction is now presented.

Substantively, the Examiner rejects all claims 1-21 under 35 U.S.C. §102(e) as anticipated by Beery 2001/0034846. In contrast to the instant invention, Beery teaches user authentication, wrapper programs and data-chunk removal of software occurring exclusively at a software distributor’s server/database 40, 42 and/or 60 remote (especially via a network communication link 50, Figure 2) from the computing device 44 and/or 68 attempting to utilize the software. In this manner, Beery controls whether or not each individual computing device is authorized to use the software. If so, the remote server then transmits the removed data chunks and associated wrapper programs (e.g., Figure 4) over a network connection to the computing device desirous of utilizing the software.

However, the Applicant’s invention recognizes such systems and expressly points out the problems therewith. Namely, “data cannot be used [by a computing device] unless a connection is made and maintained with the [remote] license server to authenticate the data.” *Applicant’s Specification, Page 2, lines 11-14*. Thus, the instant invention concerns itself with wrapping sets of executable instructions and data files that all reside coincident with the

computing device desirous of using the data file. As a result, the wrapping set of executable instructions are able to locally remove and/or restore chunks of the data file before and/or after execution of the licensing set of executable instructions. In this manner, the computing device “need not acquire permission from a network license server to use a piece of software (e.g., data file).” *Applicant’s Specification, Page 9, Lines 8-9.*

Moreover, both the Applicant’s Figures 3 and 4 show the wrapper 310, 380 and the validating set of executable instructions 320, 400, operable to determine whether a valid license is present, locally on the computing device 290, 370 desirous of using the data file. The specification even recites advantage of this as including operability “even when the computing device 290 is in a stand alone mode of operation and not in communication with any external computing devices” (*Applicant’s Specification, Page 14, lines 13-15*); and “[v]alidation and execution need not occur while the computing device 370 is in communication with any other external computing devices such as devices 350 and 360, since once the data file/program 390 is acquired from one or more of the external devices 350 or 360 the computing device is free to use the data file/program 390 and with each such use validation ensures that a proper authority exists to use the data file/program 390.” *Applicant’s Specification, Page 15, lines 9-14.*

Furthermore, Beery would never recognize that the wrapper programs, user authentication or data-chunk removal could occur at the local device, as opposed to their preferred distributor’s remote server, because this would promote multiple usages of software with only a single authorization. Skilled artisans will further appreciate Beery desires to control the missing data-chunk of software at the remote server so that all devices must communicate with the remote server to use the software. Beery strongly asserts this fact by reciting: “[t]he non-contiguous data chunk **is never stored** with the software package including the temporary installation directory.” *Emphasis Added, Beery, Page 2, Paragraph [0022], Lines 20-22.* In addition, “user[s] using the software on multiple computing devices”

is a problem that this publication attempts to overcome. *Beery, Paragraph [0012], Lines 8-9.*

Since the Applicant has now amended at least the independent claims 1, 8, 18, and 21 to include limitations relating to the notion of local (i) wrapper sets of executable instructions, (ii) data files, (iii) removal of portions of data files and (iv) authenticating licenses directly on the computing device desirous of utilizing the data file, it is submitted that all claims are patentable and not anticipated by Beery. Although not required, it is even submitted that Beery cannot possibly render the claims obvious because it antithetically teaches remote, not local processing. As before, Beery insists on user authentication, data-chunk removal, wrapper programs, etc. on a distributor's server remote from the computing device desirous of utilizing the to-be-authenticated software.

With more specificity of claim patentability, claim 1 now requires the steps of receiving data files, removing portions of the data file, wrapping a license authentication set of executable instructions around the data file, executing the license authentication set of instructions, and restoring the removed portions of the data file all "at the computing device" location. Beery, on the other hand, teaches remote processing.

In claim 3, the notion of remote versus local processing is further distinguished by requiring "notifying an owner" at a location "other than the computing device location" that a data file does not have a valid license. This further clarifies that the owner is remote from the local computing device where authenticating, data file removal and other processing occurs. Claim 16 has similar limitations and it is submitted that patentability exists for the reasons related to claim 3.

In claim 8, the step of executing the license set of executable instructions occurs "exclusively at the computing device" and such is not anticipated by Beery. The claim further requires "permitting the license set of executable instructions to further *execute on the computing device,*" not some remote licensing server. Again, it is submitted Beery does

not anticipate this type of processing and, in fact, teaches away from it.

In claims 11 and 12, the acts of removing and restoring portions of the license set of executable instructions are now required to occur “exclusively at the computing device.” As before, this is quite unlike Beery which mandates control of data-chunk removal at a server remote from the computing device. In Beery, if user registration is then later authenticated, “the user receives the missing chunk of code [from the server] to proceed with installation of the software.” *Beery*, Page 3, Paragraph [0025], Lines 21-23. As another illustration, at page 4, paragraph [0039], lines 3-4 in combination with Figure 4, Beery makes clear that authentication and data software delivery occurs “by a server” remote from the computing device that “made the request for data or software.” Figures 5a, 5b and 5c also diagrammatically illustrate this point.

In Applicant’s claim 18, it is now required to validate files “on a stand alone computing device” wherein the wrapping and validation sets of executable instructions are operable to be executed “on the computing device.” Again, this is quite unlike Beery which requires processing to occur on the licensing server remote from the computing device. It should be appreciated, however, this claim (and others) still allows for the possibility that the stand alone device is part of a larger network and may, in fact, be connected to the network during authentication. It is just a requirement that the wrapping and validation set of executable instructions operate on the computing device, not elsewhere. Also, the wrapping set of executable instructions are operable to perform the act of “removing a portion of the data file” at the computing device. Again, this is quite unlike Beery which mandates such occur away from the computing device.

Similar to claim 18, claim 21 requires wrapping and validating instruction data to be operable on a stand alone computing device, including “removal” and “restoration” of removed portions of electronic data to occur on same. Beery, on the other hand, requires the opposite.

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Consequently, the Applicant submits that all claims are in a condition for allowance and requests a timely Notice of Allowance to be issued for same. To the extent any fees are due, although none are believed due with this response, the undersigned authorizes the deduction from Deposit Account No. 11-0978.

Respectfully submitted,

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